IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Second Appeal No. 583/2004

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	**Court's or Judge's Orders.**

CORAM : **A.P. Lavande,J**
DATE : 27th November, 2006

This appeal is directed against the Judgment and decree dated 2nd July, 2004 passed by the Ad hoc Additional District Judge, Bhandara in Regular Civil Appeal No. 40/2001 dismissing the appeal filed by the appellant against the Judgment and decree dated 16.3.2001 passed by the 3rd Joint Civil Judge, Junior Division, Bhdndara in Regular Civil Suit No. 174/98.

2. The above referred suit was filed by the appellant /plaintiff seeking declaration that the plaintiff and the defendant are the joint owners of the suit property. The suit was contested by the defendant/respondent. The trial Court held that the plaintiff and the defendant were the joint owners of the suit property. However, the suit was dismissed on the ground of limitation inasmuch as admittedly the suit was filed after three years of the cause of action and the reliefs sought were for declaration and injunction for which the period of limitation is three years.

3. In appeal preferred by the plaintiff, the lower

appellate Court concurred with the finding given by the trial court on the issue of limitation. However, the lower appellate court decided the appeal against the plaintiff in so far as share in the suit property is concerned.

4. Having heard the learned counsel appearing for the parties, I do not find any merit in the present second appeal. The trial court as well as the lower appellate Court were justified in holding against the plaintiff on the issue of limitation. Once it is accepted that the suit filed by the plaintiff was barred by limitation, the trial court was absolutely justified in dismissing the suit as time barred. Consequently, the lower appellate court was also justified in concurring with the finding given by the trial court. No fault can be found with the findings of both the courts below that suit was barred by limitation. I find no merit in the present appeal. No substantial question of law is involved in the present appeal. Hence, the appeal is dismissed.

C.A. No. 7737/04:

In view of the dismissal of the appeal, nothing survives in the application. Hence, the application is dismissed as infructuous.

Judge

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